



LINDA LINGLE
GOVERNOR

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LT. GOVERNOR

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LAWRENCE M. REIFURTH
DIRECTOR

RONALD BOYER
DEPUTY DIRECTOR

TO THE SENATE COMMITTEE ON
JUDICIARY AND GOVERNMENT OPERATIONS

TWENTY-FIFTH LEGISLATURE
Regular Session of 2009

Friday, March 20, 2009
9:30 a.m.

**TESTIMONY ON HOUSE BILL NO. 1728, H.D. 1
RELATING TO FEES.**

TO THE HONORABLE BRIAN T. TANIGUCHI, CHAIR, DWIGHT Y. TAKAMINE, VICE
CHAIR, AND MEMBERS OF THE COMMITTEE:

My name is Lawrence Reifurth, Director of Commerce and Consumer Affairs
("Department"). The Department requests that the Committee amend H.B. No. 1728,
H.D. 1, to enable the Department to continue to utilize the expedited fee adjustment
process contained in section 92-28, Hawaii Revised Statutes (HRS).

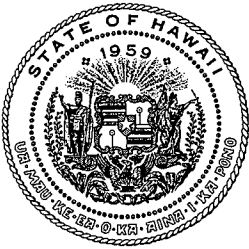
Section 1 of H.B. No. 1728, H.D. 1, purports that the purpose of the bill is to
provide administrative agencies with more flexibility to increase fees. The preamble is
incomplete as the bill also does the exact opposite—removes flexibility to adjust fees
using the expedited process—with respect to the Department, the University of Hawaii,
and the Judiciary (although the Judiciary is not an administrative agency). Although the
Department supports providing other administrative agencies with more flexibility to

adjust their fees, we oppose removing that very same flexibility from the Department's authority to adjust its fees.

The expedited adjustment process contained in section 92-28, HRS, enables the Department to react much more quickly to changing economic and business conditions than would be the case if we had to go through the chapter 91, HRS, process to adjust our fees, which could take more than a year. The Department believes that its customers appreciate the manner in which we have been able to reduce our fees.

The Department's ability to quickly respond to changes would be lost if it could not use the expedited process contained in section 92-28, HRS, and ultimately, it is our customers who would lose out. Therefore, the Department respectfully requests that the bill be amended by retaining the Department's authority to use the expedited fee adjustment process that we have responsibly exercised over the past few years.

Thank you for the opportunity to share our concerns on H.B. No. 1728, H.D. 1.



SMALL BUSINESS REGULATORY REVIEW BOARD

Department of Business, Economic Development & Tourism
No. 1 Capitol District Bldg., 250 South Hotel St. 4th Fl., Honolulu, Hawaii 96813
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Charles Au
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Donald Dymond
Oahu

Richard Schnitzler
Hawaii

David S. De Luz, Jr.
Hawaii

To: Chair Taniguchi, Vice Chair Takamine, and Members of the Committee on Judiciary and Government Operations
Conference Room 016 at 9:30 a.m.

Re: HB 1728 HD1 – “Relating to Fees”

From: Small Business Regulatory Review Board

Date: March 20, 2009

Aloha:

As the Chairperson of and on behalf of the Small Business Regulatory Review Board (Review Board), I offer testimony in **opposition** of HB 1728 HD1, “Relating to Fees.” The stated purpose of this bill is to provide “flexibility for administrative agencies to increase fees.” While we are most appreciative of the change of attitude towards business shown over the past few years, the Review Board believes that HB1728 HD1 is not following the intent of the legislation that was put into place. (See §201M-2 Determination of small business impact; small business impact statement (a) and (b)). Given that many proposed fees are written into an Agency’s administrative rules, any increase represents a potential negative impact, which requires a small business impact statement to be submitted to the Review Board for review.

This proposal also removes the maximum increase, leaving the business community totally vulnerable from fee increases that cause a huge financial business impact. On behalf of the members of the Small Business Regulatory Review Board, thank you for opportunity to testify on this bill.

Yours truly,

Lynne Woods, Chairperson
Small Business Regulatory Review Board



**Testimony to the Senate Committee on Judiciary and Government Operations
Friday, March 20, 2009
9:30 a.m.
State Capitol - Conference Room 016**

RE: HOUSE BILL NO. 1728 HD1 RELATING TO FEES

Chair Taniguchi, Vice Chair Takamine, and Members of the Committee:

My name is Jim Tollefson and I am the President and CEO of The Chamber of Commerce of Hawaii ("The Chamber"). I am here to state The Chamber's opposition to House Bill No. 1728 HD1, relating to Fees.

The Chamber is the largest business organization in Hawaii, representing more than 1,100 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

This measure provides flexibility for administrative agencies to increase fees.

Although the Chamber understands the intent of this measure, we believe that this measure will have an unfair fiscal impact on small businesses, especially as they weather this tough economic storm. Furthermore, the measure removes the maximum increase. This imposes unpredictability and instability in the planning, forecasting, and budgeting by small companies.

Thus, The Chamber respectfully requests HB 1728 be held. Thank you for the opportunity to testify.



March 20, 2009

**TESTIMONY BEFORE THE SENATE COMMITTEE ON
JUDICIARY AND GOVERNMENT OPERATIONS
ON HB 1728 HD1 RELATING TO FEES**

Thank you Chair Taniguchi and committee members. I am Gareth Sakakida, Managing Director of the Hawaii Transportation Association (HTA) which has 380 transportation related members throughout the state of Hawaii.

HTA opposes giving government agencies the unbridled ability to increase fees. Small businesses always suffer from increased fees, but through the legislative process they at least have the opportunity to tell their story of hardships and/or suggest other options. They have a receptive ear and a chance to mitigate the impacts.

Government agencies have their own outlook and mission, and have not been receptive to the plights of the businesses they regulate. When administrative hearings have been employed for the purpose of increasing fees, there has been precious little evidence over the years of receptiveness to business' plights.

No entity should have the power to increase fees without oversight and without giving the public to provide their input.

Thank you.



March 20, 2009

TESTIMONY TO: Senate Committee on Judiciary and Government
Operations
9:30 AM Room 016

Senator Brian Taniguchi, Chair

Presented By: James E. Coon, President of the Ocean Tourism
Coalition

Subject: H. B. 1728 HD1 RELATING TO FEES

VERY STRONG OPPOSITION TO HB 1728 HD1

Chair Taniguchi and Respected Members of the Committee:

I am Jim Coon, President of the state-wide Ocean Tourism Coalition (OTC) speaking in **Very Strong Opposition** of this bill.

Commercial boaters represent less than 3% of the total boats using state boating facilities yet produce close to 50% of all revenues derived from boater fees. Commercial boaters recently supported legislation to have their fees raised by 50% with the promise that this would provide enough extra revenue for DOBOR to upgrade our harbors. As an industry we just cannot afford any significant increase in what we are already paying. We are paying more than our fair share! We are not complaining, but do not want to see a draconian open ended fee system added on to our already strained resources to the point were it drives us out of business.

Here are some of the reasons we oppose this bill:

- It gives **unfettered discretion** to any board, commission, or governmental agency.
- It makes the **user pay for gross cost overruns with out any check and balance** or motivation for the agency to operate within a specific budget.

- It **exempts itself from Act 168** that established the Regulatory Review Board which was established precisely for this reason.
- It creates a very **difficult business environment for small business** to plan and be a part of rule and fee making decisions.
- It makes the fee setting agency as the same entity that determines the “cost” or “value” of the service. Again **no checks or balance**.

Almost everyone realizes the present economic crisis is very serious. The Golden Goose story comes to mind. OTC appreciates the need for efficiency in government and the desire to raise fees as soon as they are needed. However we also realize that **unbridled government always leads to excessive fees and rulemaking** and would destroy the small and large business communities as well as hurt the community at large the government is designed to protect. We are the goose that needs to be nurtured not butchered.

We humbly request that you hold this bill.

Please Kill this bill HB 1728 HD1

Thank you,

James E. Coon, President
Ocean Tourism Coalition
PO Box 847
Kula, HI 96790
808-870-9115

From: rawcohi@cs.com
Sent: Wednesday, March 18, 2009 1:56 PM
To: JGO Testimony
Subject: Testimony in Opposition to HB 1728, HD 1 by JGO Friday, 3/20 at 0930 in room 016

TESTIMONY IN OPPOSITION TO HB 1728, HD1

Senate Committee on Judiciary and Government Operations

Friday, 20 March at 0930 in room 016

Chair Taniguchi and Respected members of the Committee,

My name is Reg White. I am vice president, project development for Stars of Paradise Tours and Attractions. We have been in business in Hawaii for the past 52 years, operating excursion, tour and dinner cruise boats from Hawaii's ports. We also own and operate RoyalStar Hawaii Transit serving the tourism industry on Oahu. These are operations that must be permitted by various agencies at almost every step of the way. This bill, HB 1728, HD1, removes all accountability from the fee setting process. In the beginning of the act it identifies and defines "fee" as the recovery of "cost". The present system of notices and hearings to set fees requires responsibility and accountability on the part of the agency to use the money collected wisely and to be responsible in their operations, to show a true need for any proposed fee increase. It also keeps the agency in touch with the businesses regulated by receiving testimony in return describing conditions in the pit. If you short circuit this process, all checks and balances are gone and we are hopelessly dependant on oversight by a group that now has no communication with the regulated. Please do not defeat the present system that has served our industries and the state so very well for so many years.

I realize that the state is in a panic because of revenue shortfalls this year. Well, guess what? We in the visitor industry suffer from exactly those same shortfalls, and killing the geese that lay the golden eggs and causing massive layoffs within our industry will most certainly not fix the state's financial problems. Fee increases must be justified to the payors, as any increase in costs must be passed on to the consumer, and this can make our activities or even Hawaii itself seem too expensive a destination in very short order.

Please hold this bill.

Respectfully,

Reg White
1540 S. King St.
Honolulu, Hawaii 96826-1919
(808) 222-9794
RawcoHI@cs.com

From: Capt Mike [captmike@hawaii.rr.com]
Sent: Wednesday, March 18, 2009 9:35 PM
To: JGO Testimony
Subject: Testimony in Opposition to HB 1728, HD 1by JGO Friday

TESTIMONY IN OPPOSITION TO HB 1728, HD1

Dear Chair Taniguchi:

My name is Michael De Rego and I am the President of Inter Island Sport Fishing. Our company has been in the tourist industry for over 58 years providing first class fishing charters.

I am strongly opposed to this bill. Without the public process, many small business's will not survive if this bill moves forward. The public process allows the small business and government to find the median which should allow both small business and government to survive.

Please do not allow this bill to move forward.

Michael de Rego
Inter Island Sport Fishing
President
(808) 306-2097



March 20, 2009

TESTIMONY TO: Senate Committee on Judiciary and Government
Operations
9:30 AM Room 016

Senator Brian Taniguchi, Chair

Subject: H. B. 1728 HD1 RELATING TO FEES

VERY STRONG OPPOSITION TO HB 1728 HD1

Chair Taniguchi and Respected Members of the Committee:

I am Mendy Dant, Vice-President of a small family owned business speaking in **Very Strong Opposition** of this bill.

We have been in business in Kona for over 38 years. We have weathered many storms and when the times become really challenging it is important that we keep our wits. Move forward in a positive manner, encourage the visitors and residents to find value in our products. We can not function in a state of despair, short-sightedness and greed. This bill HB 1728 HD1 is hazardous to the health of our businesses.

Here are some of the reasons I oppose this bill:

- It gives **unfettered discretion** to any board, commission, or governmental agency.
- It makes the **user pay for gross cost overruns with out any check and balance** or motivation for the agency to operate within a specific budget.
- It **exempts itself from Act 168** that established the Regulatory Review Board which was established precisely for this reason.
- It creates a very **difficult business environment for small business** to plan and be a part of rule and fee making decisions.
- It makes the fee setting agency as the same entity that determines the "cost" or "value" of the service. Again **no checks or balance**.

Almost everyone realizes the present economic crisis is very serious. The Golden Goose story comes to mind. The people of Hawaii need our government

to recognize the lack of efficiency in government. The desire to raise fees without ever requiring accountability and return on investment. We also realize that **unbridled government always leads to excessive fees and rulemaking** and would destroy the small and large business communities as well as hurt the community at large the government is designed to protect. We are the goose that needs to be nurtured not butchered.

We humbly request that you hold this bill.

Please Kill this bill HB 1728 HD1

Respectfully,
Melynda Dant

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Vice President
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From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 19, 2009 12:53 PM
To: JGO Testimony
Cc: bossfrog@maui.net
Subject: Testimony for HB1728 on 3/20/2009 9:30:00 AM

Testimony for JGO 3/20/2009 9:30:00 AM HB1728

Conference room: 016
Testifier position: oppose
Testifier will be present: No
Submitted by: Phillip Kasper
Organization: Frogman Charters
Address: 156 Lahainaluna Rd
Phone: 808-264-2450
E-mail: bossfrog@maui.net
Submitted on: 3/19/2009

Comments:

Keep fee increases under control as it is under the present system

From: hossellman@aol.com
Sent: Thursday, March 19, 2009 10:53 AM
To: JGO Testimony
Subject: HB 1728 HD 1

Re: HB 1728 HD 1

Hearing 3/20/09

Dear Legislators,

Please note my objection to this bill. This gives away too much power to the agencies to raise fees so that they can build their agency for just the wealthy in our population.

Thank you,

Jeff Hossellman, Esq.
3081 Wailani Road
Honolulu, HI 96813
225 7173
